

**Filed 5/11/10 by Clerk of Supreme Court  
IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

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2010 ND 75

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State of North Dakota,

Plaintiff and Appellee

v.

LaVerne Ralph Koenig,

Defendant and Appellant

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No. 20090391

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Appeal from the District Court of Traill County, East Central Judicial District,  
the Honorable Wickham Corwin, Judge.

AFFIRMED.

Per Curiam.

Stuart A. Larson, State's Attorney, P.O. Box 847, Hillsboro, N.D. 58045-0847,  
for plaintiff and appellee.

LaVerne Ralph Koenig, self-represented, 15520 Highway 200A SE,  
Blanchard, N.D. 58009-9326, defendant and appellant.

Paul Raymond Emerson (on brief), Assistant Attorney General, Office of  
Attorney General, 600 East Boulevard Avenue, Bismarck, N.D. 58505, amicus curiae.

**State v. Koenig**

**No. 20090391**

**Per Curiam.**

[¶1] La Verne Koenig appeals from a criminal judgment entered upon a jury verdict finding him guilty of allowing livestock to run at large. Koenig argues: (1) the complaint was legally insufficient; (2) the statute defining a legal fence, N.D.C.C. § 47-26-01, is unconstitutional; (3) the district court judge lacked jurisdiction to hear the case; (4) the practice of rotating judicial assignments in the East Central Judicial District is unconstitutional; (5) the district court failed to provide a full and fair hearing on motions; (6) the State engaged in selective and vindictive prosecution; (7) Koenig was denied the effective assistance of counsel; (8) the evidence was insufficient to sustain a conviction as a matter of law; (9) the State withheld requested discoverable evidence and presented false and misleading evidence; (10) Koenig was denied “equality” in the court proceedings; and (11) Koenig was improperly denied legal counsel at critical stages of the criminal process and on direct appeal.

[¶2] Most of Koenig’s arguments on appeal relate to his assertion that he received ineffective assistance of counsel. We have previously cautioned that ineffective assistance of counsel claims should generally be raised in post-conviction proceedings to allow the parties to fully develop a record of counsel’s performance and its impact upon the defendant’s claim. State v. Blurton, 2009 ND 144, ¶ 20, 770 N.W.2d 231, cert. denied, 130 S.Ct. 656. When a defendant alleges an ineffective assistance of counsel claim on direct appeal, we review the record to determine if counsel’s performance was “plainly defective.” Id. (quoting State v. Bates, 2007 ND 15, ¶ 19, 726 N.W.2d 595). We also note that, although Koenig now contends that the assignment of a different district judge to preside over his case violated his rights under N.D.C.C. § 29-15-21, he did not raise a timely objection under the statute in the trial court.

[¶3] We affirm the criminal judgment under N.D.R.App.P. 35.1(a)(1), (3), and (4).

[¶4] Gerald W. VandeWalle, C.J.  
Mary Muehlen Maring  
Daniel J. Crothers  
Dale V. Sandstrom  
Carol Ronning Kapsner